

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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ELECTRICAL WORKERS HEALTH  
& WELFARE FUND ET. AL.

Civ. No. 10-3020 (JNE/LIB)

Plaintiffs,

v.

**REPORT AND  
RECOMMENDATION**

POLYPHASE ELECTRIC COMPANY,

Defendant.

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This case was filed on July 16, 2010. (Docket No. 1). Since no action had been taken in the case for over six months, the undersigned issued an order directing the Plaintiff to serve, file and schedule, a motion to strike the Answer and for Entry of Default in this case or the undersigned would recommend to Judge Joan Ericksen that the case be dismissed for lack of prosecution. (Docket No. 28).

Thereafter, on November 10, 2011, Aaron Branksy, attorney for the Plaintiffs, filed a letter with the Court advising it that the Plaintiffs did not intend to prosecute the case any further as the Defendant has ceased operating. (Docket No. 29). Plaintiffs further advised that they would not oppose dismissal based on lack of prosecution. Id.

Based upon the above, and upon all the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that:

This action be dismissed without prejudice for lack of prosecution.

DATED: November 21, 2011

s/Leo I. Brisbois  
LEO I. BRISBOIS  
United States Magistrate Judge

### NOTICE

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and serving all parties **by December 5, 2011**, a writing that specifically identifies the portions of the Report to which objections are made and the bases for each objection. A party may respond to the objections within fourteen days of service thereof. Written submissions by any party shall comply with the applicable word limitations provided for in the Local Rules. Failure to comply with this procedure may operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals. This Report and Recommendation does not constitute an order or judgment from the District Court, and it is therefore not directly appealable to the Court of Appeals.